

DECLARATION AND POWER OF ATTORNEY ORIGINAL APPLICATION

Attorney Docket No.: 10437-69

As a below named inventor, I hereby declare:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor or an original, first and joint inventor of the subject matter that is claimed and for which a patent is sought on the invention entitled

BREATHING CIRCUITS HAVING UNCONVENTIONAL RESPIRATORY CONDUITS AND SYSTEMS AND METHODS FOR OPTIMIZING UTILIZATION OF FRESH GASES

the specification of which:

- is filed herewith
- was filed on 12 February 2004 as Application Serial No 10/777,772.

I have reviewed and understand the contents of the specification identified above, including the claims.

I acknowledge my duty to disclose information of which I am aware that is material to the examination of this application in accordance with Section 1.56(a), Title 37 of the Code of Federal Regulations; and as to application for patents or inventor's certificate on the invention filed in any country foreign to the United States of America, prior to this application by me or my legal representatives or assigns,

- no such applications have been filed, or
- such applications have been filed as follows:

COUNTRY	APPLICATION NO.	DATE OF FILING (day, month, year)	DATE OF ISSUE (day, month, year)	PRIORITY CLAIMED UNDER 35 USC 119

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s) or § 365(c) of any PCT International application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

10/390,070
(Application Number)

March 14, 2003
(Filing Date)

Pending
(Status - patented, pending, abandoned)

10/254,700
(Application Number)

September 24, 2002
(Filing Date)

Pending
(Status - patented, pending, abandoned)

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below:

<u>60/340,206</u> (Application Serial No.)	<u>December 12, 2001</u> (Filing Date)
<u>60/324,554</u> (Application Serial No.)	<u>September 24, 2001</u> (Filing Date)

POWER OF ATTORNEY: The undersigned hereby revokes all previously granted powers of attorney in the above-identified patent application and appoints the following attorneys to prosecute said patent application and to transact all business in the U.S. Patent and Trademark Office connected herewith:

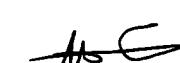
Daniel B. Schein, Ph.D., Esq.
Reg. No. 33,551

The first named attorney, Daniel B. Schein, is authorized to appoint other counsel under his supervision and to change correspondence addresses and firm. In the event of a change in the persons from whom instructions may be taken, the U.S. attorneys named herein will be so notified by the undersigned.

Address all correspondence and telephone calls to:

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(408) 294-6750

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME AND POST OFFICE ADDRESS OF INVENTOR	RESIDENCE	CITIZENSHIP	SIGNATURE	DATE
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